Via ECFS

August 24, 2017

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: ***Ex Parte*** **Notice:** GN Docket No. 16-142, *Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard*

Dear Ms. Dortch:

On August 24, 2017, the undersigned met with Commissioner O'Rielly and his Legal Advisor, Erin McGrath, to discuss the issues raised in the above-captioned proceeding.

The presentation focused on an overview of Next Generation Television and several of the issues raised in the pleadings. Included among the issues were the following.

Incorporating Standards as Rules - A/321 or A/322

The Commission should avoid over-regulation to permit innovation: in other regulated telecom services, the Commission's rules support maximum innovation by specifying interference requirements rather than technical standards. We believe the Commission should follow a similar approach here.

The Commission does not need to specify A/322 to ensure universal compatibility. Equipment manufacturers build to industry standards – and service providers use those standards – in the ordinary course without any government mandates. Mandating A/322 would hamper innovation without any corresponding benefit.

The existing interference parameters ***already specify*** the emission envelop in A/53 (Section 73.622(h) of the Commission's rules). That sets the limit for out-of-band DTV emissions. It defines the emission mask and ratios of desired to undesired signals. Section 73.622(h) will apply to Next Gen TV broadcasts. There are many forms of transmission that can operate within the constraints of Section 73.622(h). Mandating a single technical standard to assure compliance for television only is not necessary and would hamper innovation. The Commission should specify only the "Bootstrap" portion of the standard (A/321) in the Rules.

Deployment - Simulcasting Requirement

We agree that, in general, stations deploying ATSC 3.0 should continue to make their primary 1.0 signals available to viewers in their markets. But the Commission's ATSC 3.0 deployment approach must recognize that simulcasting will not always be practical or even possible.

Stations that wish to upgrade to Next Gen but which cannot provide an ATSC 1.0 simulcast despite reasonable efforts to do so should nonetheless be permitted to upgrade their service.

We expect the instances in which simulcasting is not feasible to be the exception. This includes television markets that will have either one or two stations (after accounting for stations cleared in the incentive auction). Simulcasting of full power stations is obviously impossible in markets with a single television station. In two station markets it is conceivable that one station will wish to launch Next Gen service but the other may not. At some point, the station wishing to innovate should have a path to do so, even if it cannot persuade another station to cooperate. It is also imperative that, once converted, these stations should retain their mandatory carriage rights.

ATSC 3.0 offers many capabilities that could be forestalled, perhaps by many years, by a strict (identical replication of programming) definition of simulcasting. These include the ability to target certain viewers by geography or other objective criteria, and to provide targeted emergency alerts, news, weather and advertising. It is features like these – which cannot be replicated in an ATSC 1.0 simulcast – that will help drive market demand for ATSC 3.0 devices.

During the simulcast period, we expect that Next Gen signals will include programming that is either substantially the same, or that is comparable to the programming carried on the ATSC 1.0 signal, considering the ability to enhance that programming using the 3.0 capabilities. A strict simulcasting requirement would put the Commission in the unenviable position of deciding which program stream (ATSC 1.0 or Next Gen) should be the "default" for purposes of determining whether the other program stream qualifies as a simulcast. This may be a straight forward decision early in the transition. But as Next Gen penetration grows, such decisions would necessarily be arbitrary. The Commission, however, should not mandate any specific "default" programming.

Deployment - MVPD Issues

Multichannel Video Programmers and their advocates vastly overstate the impact of ATSC 3.0 on their ability to retransmit broadcast signals, from deceptive claims about patent royalties to disingenuous assertions about how their systems operate. They ask the Commission to condition approval of ATSC 3.0 on a long list of new regulations limiting broadcasters' retransmission consent rights. This is a transparent attempt to convert this limited proceeding – which is about technology and innovation – into a referendum on retransmission consent.

Most of the MVPD's requests simply repackage arguments filed in multiple other Commission proceedings challenging the free marketplace regime Congress adopted. One suggestion, for example, that the Commission require broadcasters to negotiate carriage of ATSC 3.0 signals separately, is styled as a "process" rule that is within the FCC's authority. The support, however, is a highly selectively quote from an FCC good faith bargaining order that, read in full, specifically and pointedly rejects exactly that MVPD position. Which streams are to be carried is a *substantive* term, and the Commission lacks authority to impose substantive limits on retransmission consent negotiations.

The claim that ATSC 3.0 will subject MVPDs to material patent royalty costs is unfounded. For example, the MVPD assertion that broadcasters might require MVPDs to change out tens of

millions of set-top boxes so as to pass through ATSC 3.0's more efficient video coding is preposterous: MVPDs universally transcode broadcast programs streams into the encoding technologies that are native to their own platforms. If ATSC 3.0 permits broadcasters to provide higher quality or more engaging features than MVPDs can support, they can choose whether and when to upgrade their systems to remain competitive.

Deployment - SFN/DTS Coverage Waivers

Broadcasters need substantial flexibility in deploying single frequency networks. The existing DTS rules are too restrictive to permit Next Gen TV SFNs to reach their full potential to better serve Americans. We have proposed that the Commission permit broadcasters to "shrink the gap" between the 41 dBμ predictive coverage contour and the 26 dBμ interference contour. So long as emissions are contained within the interference contour of the primary full power transmitter location (or interference agreements have been reached with affected parties), broadcasters should be able to locate SFN towers to increase the portion of the area within the interference contour in which useful service can be provided. This will greatly increase the utility of Next Gen television by improving service and expanding coverage without any additional assignments of spectrum.

Please contact the undersigned should you have any questions regarding this matter.

Sincerely,

/s/

Jerald N. Fritz
Executive Vice President,
Strategic and Legal Affairs
ONE Media, LLC

cc: Commissioner O'Rielly
Erin McGrath